

**PAYPLUTUS / APPNIT MERCHANT
AGREEMENT**

THIS AGREEMENT ("Agreement") is executed on this _____ day of _____, _____.

BY AND BETWEEN

Appnit Technologies PRIVATE LIMITED, a company incorporated under the provisions of the Companies Act, 1956 and having its registered office at 403 , Tower-A , 4th Floor Logix Technova , Sector 132 Noida, U.P. 201301, India. (hereinafter referred to as "Master Merchant", which term shall, unless repugnant to the context or meaning thereof, mean and include its assignees, affiliates, subsidiaries, associates, administrators and successors) of the ONE PART;

AND

_____, a company incorporated under the provisions of the Companies Act, 1956 / Companies Act, 2013 / a Limited Liability Partnership Firm registered under the Limited Liability Partnership Act, 2008/ a partnership firm registered under the provisions of the Indian Partnership Act / a proprietorship firm / an Individual/ a trust/ a society (strike off whichever is not applicable) having its office at _____

(Registration No. _____ (please mention NA, if registration no. is not applicable)), hereinafter referred to as "**Merchant**", which expression shall unless it be repugnant to the context or meaning hereof shall be deemed to mean and include (i) in the case of Merchant being a sole proprietary concern / individual - the heirs, administrators, executors, legal representatives and permitted assigns of the Proprietor; (ii) in the case of Merchant, being a limited liability partnership/ partnership firm – the designated partners/ partners for the time being and from time to time of the firm, the survivor or survivors of them, their respective heirs, administrators, executors, legal representatives and permitted assigns and (iii) in the case of Merchant, being a company – its successors and assigns (as the case may be) (iv) in the case of Merchant being a Trust- The trustees from time to time of the trust, administrators, beneficiaries and the survivor or survivors of them, executors, legal representatives and permitted assigns (as the case may be) (v) in case of Merchant being a Society the governing body, managing person or beneficiaries (by whatever name called and as the case may be) of the Second Part ;

(Both "Appnit" and "Merchant" are hereinafter individually referred to as a "Party" and collectively as "Parties".)

WHEREAS:-

1. APPNIT is *inter alia* engaged in the business of providing technology platform and other similar services to its Merchants with respect to payments to be made by the Customers (defined hereinbelow) of such Merchants by using the Facility Providers (defined hereinbelow) facilities, the Acquiring Bank's (defined hereinbelow) Services and NetBanking facilities provided by the Acquiring Banks and accordingly facilitate transfer of funds from the Customer's bank account(s), maintained with Acquiring Banks, for purchase of goods and/or services by the Customers on the Merchant's Website.
2. APPNIT has signed up various agreements with various banks/ financial institutions and is in the process of signing up agreements with more banks and companies offering Online Payment Gateway facilities, Acquiring bank services and Net banking services as well as third party service providers and have arrangement with all of them for accepting instructions from the Customers of its Merchants through the internet in respect of payments to be made by the Customer to the Merchant for purchase of goods/ services and accordingly transfer funds from the Customer's Bank Account to a Nodal Bank Account held by APPNIT for the purpose of facilitating online payments in accordance with Reserve bank Of India ('RBI') directions issued from time to time;
3. Various banks and financial institutions, (hereinafter collectively referred to as 'Acquiring Banks') and 'Facility Providers' (defined hereinbelow) offers various facilities to APPNIT through the internet, which facilities and services includes Net Banking Facilities, Internet Payment Gateway Facilities, Internet based electronic commerce and providing authorization (from third party clearing house networks) and Settlement Facilities in respect of payment instructions initiated by the Merchant's Customers on the Merchant's Websites. These facilities will be hereinafter be referred to as the "Net Banking Facilities" and/or "Acquiring Bank's Services";
4. APPNIT, through its web-site with the domain name www.appnittech.com, will enable its Merchants to link up with various payment gateways and Acquiring banks so as to enable the Merchant's Customers to place orders for purchase and pay for the goods and services through the Merchant's Website.
5. Merchant is engaged in the business of _____

("Merchant's Product and Services")
6. The Merchant shall ensure that all licenses and registrations required by the Merchant are in full force and effect to enable the Merchant to carry on its business of selling/providing of goods and services. The Merchant assures and guarantees to the Appnit, Acquiring Banks, Card Associations and Facility Providers that the Merchant shall comply with all rules, byelaws and standards set by the Card Associations, Acquiring Banks, the Facility Providers and the Appnit.
7. The Merchant represents, undertakes and warrants that it shall, from time to time and as may be required to perform its obligations under this Agreement, obtain licenses, approvals, registrations and any other Governmental or other permissions and shall renew the same, if required, in accordance with the laws under which such permissions, licenses, registrations, approvals have been obtained and during the entire tenure of this Agreement shall be authorized to perform its obligations under this Agreement. The Merchant further undertakes and warrants that it shall comply with all applicable laws, rules, regulations, guidelines, bye-laws, notifications, circulars, instructions of Government or other authority(ies) as may be applicable, from time to time, to perform its obligations under this Agreement.
8. Merchant is now desirous of availing APPNIT's Services / Software / Platform for enabling online payments options on its website _____ **(Merchant's Website)**.

The Parties hereto are desirous of executing this Agreement and record the terms and conditions as under:

NOW THE PARTIES HEREBY AGREE AS FOLLOWS:

1. DEFINITIONS

- a) **“Agreement”** shall mean this agreement and all other documents (which may be signed between APPNIT and Merchant, from time to time in relation to subject matter of this Agreement) and any and all schedules, appendices, annexures and exhibits attached to it or incorporated in it.
- b) **“Customer”** means any person holding a valid Credit Card/Debit card/NetBanking Account and who desires to purchase Services or Products from the Merchant and makes payment for the same using APPNIT’s platform on Merchant’s Website.
- c) **“Customer Order”** shall mean an order placed by the Customer on Merchant’s Website for purchase of goods or for availing of services provided by Merchant at Merchant’s Website and shall be specifically designated by a Customer Order Number (“CON”) which CON can be used by the Customer for obtaining details about the Order including without limitation details of the status of such Order.
- d) **“Customer Charge”** means the sale price of the Product / Service purchased or availed by the Customer plus the shipping charge (if any) and all other taxes, duties, costs, charges and expenses in respect of the Product / Service that are to be charged to the Customer’s Valid Credit Card/Debit Card/NetBanking Account.
- e) **“Card Associations”** shall mean and include Master Card, Visa, Diners Card, American Express Card etc., which authorizes and enables credit card transactions.
- f) **“Dispatch”/ “Delivery”** shall mean, in respect of a Product, dispatch/delivery of the Product by a reputed courier /parcel service to the Customer at the address specified by the Customer in this behalf or in respect of a Service, delivery/performance of the Service, proof of which shall be submitted by the Merchant to APPNIT, that the Product has been dispatched to the address specified by the Customer, and in respect of a Service, delivery / performance of the Service. APPNIT reserves the right to call for physical proof of dispatch/delivery in respect of delivery / performance of the Product/Service, if required, on case-to-case basis. Merchant shall maintain proof of dispatch for a period of at least one (1) year from the date of delivery and shall make available to APPNIT as and when demanded by APPNIT or the Acquiring Bank
- g) **“Effective Date”** means the date of execution of this Agreement as first abovementioned.
- h) **“Facility Provider(s)”** shall mean and connote various Banks, Financial Institutions and various software providers who have signed with APPNIT from time to time and are in the business of providing information technology services including but not limited to Internet based electronic commerce, Internet payment gateway and electronic software distribution services. These facility providers allows APPNIT to use the Payment Gateways developed by them to route credit/charge/debit card transaction entered into on the Internet to third party clearing houses/ Acquiring Banks.
- i) **“Internet”** shall mean any medium or channel of communication based on Internet networks and protocols (IP) and/or technologies and include technologies, formats and standards currently identified as “ADSL”, “Broadband” “Web”, “WAP”, “GPRS”, “EDGE” or similar technologies, present or future.
- j) **“Issuing Bank”** in respect of a Customer, means the bank which has issued the Valid Credit Card/Debit Card/NetBanking Account to the Customer with which Customer makes the payment for the Products / Services on Merchant’s Website.
- k) **“Merchant’s Bank Account Details”** shall mean the details as provided in Annexure “B”.
- l) **“NetBanking Facilities”** shall mean the facilities and services provided by Issuing Banks, which allow authorization (from third party clearing house networks) and settlement facilities in respect of payment instructions initiated by its customers on their respective NetBanking websites.
- m) **“Order”** means an order for the purchase of Product(s) / Services placed by the Customer at Merchant’s Website.
- n) **“Product”** means a tangible commodity/product manufactured, marketed, distributed or sold through Merchant’s Website, for and on behalf of its Vendors or by the Merchant, to Merchant’s Customer(s), the payment for which is to be made by the Customer’s Valid Credit Card/Debit Card/NetBanking Account.
- o) **“Transaction Discount Rate” OR “TDR”** means, with respect of every transaction undertaken by the Customer for purchasing any of Merchant’s Product and/or Services, applicable charges of APPNIT for providing APPNIT’s Services to the Merchant, which are specifically provided under **Annexure ‘A’** of this Agreement. The Transaction Discount Rate is applicable perennially starting from the date of Execution and APPNIT reserves the right to modify the same by giving a 30 days advance notice to the Merchant.
- p) **“Service”** means any service that Merchant offers to provide through Merchant’s Website and that is availed of by the Customer, the payment for which is to be made on the Customer’s Valid Credit Card/Debit card/NetBanking Account.
- q) **“Transaction”** means every order that results in the Delivery by Merchant to the Customer of the Product(s) / Services in respect of which the Order was placed.
- r) **“Valid Credit Card/Debit Card”** means a Visa/MasterCard/American Express/Diners Club/JCB credit card / Debit Card provided by the Issuing Banks to the Customer for Customer’s Bank account held with such Issuing Banks or any other card acceptance facility provided by APPNIT, the Facility Providers or the Acquiring Banks and which is not listed in Visa/MasterCard’s and other current warning bulletins.
- s) **“APPNIT Software”/ “APPNIT Services”** shall mean appropriate payment platform provided to Merchant, developed and deployed by APPNIT for the purposes of enabling online payment transactions by the Customers to Merchant.

2. NON-EXCLUSIVITY

Nothing in this Agreement shall prohibit/restrict any Party from offering/rendering the services similar to those provided under this Agreement to any other Person (natural or non-natural).

3. COMMERCIALS

- a.) Payments – Subject to other provisions of this Agreement and Reserve Bank of India directions issued from time to time for opening and operation of Accounts and settlement of payment for electronic payment transactions, APPNIT agrees to pay to Merchant and the Merchant acknowledges and agrees to receive, the Customer Charge less:
- (i) the Transaction Discount Rate for the Merchant's Products and Services.
 - (ii) the sum of all Customer Charges denied, refused, or charged back by the Customer or the credit card service provider during the period;
 - (iii) any taxes, penalties, rolling reserves, Bank charges or other items reimbursable under any of the provisions of this Agreement or otherwise accruing during the period;
 - (iv) any amounts due which APPNIT is entitled to receive with respect to any other transactions with APPNIT.
- b.) In addition to TDR, Merchant also agrees to pay to APPNIT, Integration Fee and Annual Maintenance Cost ("AMC") as more specifically provided in Annexure "A" attached to this agreement.
- c.) Rejection of Payment – APPNIT, the Facility Providers and the Acquiring Banks may reject payment in respect of Orders where:
- (i) any Order which the Customer refuses to pay because the Product / Service was not as promised or was defective or was not delivered;
 - (ii) The card-issuing bank advises that the credit card number does not match any number on file;
 - (iii) Payment in respect of the Order or the relevant installment of the purchase price has already been made;
- d.) Where APPNIT, the Facility Providers and the Acquiring Banks are entitled to reject payments in respect of an Order or demand a refund, APPNIT shall be entitled to set off and deduct from any payment due to the Merchant, and in doing so APPNIT may:-
- (i) debit the Merchant's Account held with APPNIT, forthwith; and/or
 - (ii) deduct the outstanding amount from subsequent credits to the Merchant's Account, and/or
 - (iii) if there is insufficient funds available therein; claim from the Merchant the amount paid to the Merchant by APPNIT in respect of the relative sales; which the Merchant on receipt of the claim from APPNIT undertakes forthwith to pay to APPNIT, the amount of the refund to the extent to which such funds proves inadequate.
- e.) If APPNIT, the Facility Providers and the Acquiring Banks suspects, on reasonable ground, that the Merchant has committed a breach of this agreement or dishonestly or fraud against the APPNIT, the Facility Providers, the Acquiring Banks or any Customer, APPNIT shall be entitled to suspend all payment under this agreement to the Merchant pending enquiries by APPNIT.

4. COVENANTS OF MERCHANT:

In consideration of APPNIT performing its side of the contract as mentioned herein, Merchant hereby declares, assures, undertakes and covenants as under:

- a.) Merchant shall duly fulfill all Customer Orders in accordance with the instructions of the Customer. Merchant will not acknowledge an Order as "Shipped/Order executed" until after the merchandise has been duly shipped or the Order is completed/executed. Merchant agrees to deliver all merchandise to Customers and/or complete/ execute all orders as expeditiously as possible and without any delay. Merchant will not offer "backordered" or out-of-stock products for sale.
- b.) Merchant may carry out all verifications for the Customer as may be required on an independent basis without any liability on APPNIT.
- c.) The Merchant shall prior to accepting any instructions from the Customer ensure that appropriate agreements have been executed with the Customer in accordance with the requirements of applicable law and regulations.
- d.) APPNIT, the Facility Providers and the Acquiring Banks shall not be a party to the Agreement(s) between the Customers and the Merchant in any manner whatsoever. All contracts are directly between the Merchant and the Customers.
- e.) Notwithstanding the aforesaid, Merchant assures and guarantees to APPNIT, the due performance of all Customer Orders for which the payment will be transferred through the Payment Mechanism.
- f.) The ownership of the customer and database shall always remain with Merchant as per terms of the agreement and also after termination of agreement. Merchant agrees to take on the risk associated with the transaction with respect to any losses incurred due to Customer repudiation, revocation etc. In the event of any Customer complaining of any deficiency in Service, Merchant shall take such measures as may be required to rectify the same.

- g.) Merchant shall ensure that all licenses and registrations required for processing the transactions are in full force to enable Merchant to carry on the business of sale of goods and services.
- h.) Customer database shall remain with Merchant during existence and after termination of the agreement however Merchant shall ensure that there are proper encryption and security measures at Merchant's platform to prevent any hacking into the information of Merchant's customers and other data.
- i.) APPNIT, shall advice Merchant to add to Merchant's Website such disclaimers, policies (including refund policy), warranties and indemnities as APPNIT, may require from time to time and Merchant shall comply with the same instructions/advice.
- j.) Each party will allow the other party, a non-exclusive, royalty-free, limited license to use and display its trademarks, service marks and logos solely in connection with the marketing of their facilities and services to the public, with a prior written permission from respective party, which shall not be unreasonably withheld by that party, only during existence of this agreement. Merchant shall prominently display on its website that APPNIT is your online payment provider. Merchant shall disclose its privacy policy on the website, which statement shall clearly provide that the privacy of the customer is protected and no information given by the Customer shall be utilized in any manner whatsoever which could directly or indirectly result in any harm to the customer or which could constitute a breach of privacy and Merchant shall be responsible for the accuracy of all information and/or validity of the prices and any other charges and/or other information relating to the goods and services, offered through or included in Merchant's Website.
- k.) Each Party shall own all intellectual property rights in respect of their respective web sites and other services, including any literature, manuals, reports, research papers, data, flow charts, drawings, designs, diagrams, tables, software, source code or object code or other information or materials in whatever form and on whatever media stored or held, acquired, created, developed, designed or otherwise prepared by the respective Party and any related patents, trademarks, logos and service marks, registered designs, utility models or applications for any of the foregoing. Design rights, copyrights and all or any similar or equivalent rights arising or subsisting in any country in the world shall be owned by such Party and all or any part thereof shall belong to such Party absolutely.
- l.) Merchant shall take all precautions as may be feasible to ensure that there is no breach of security and that the integrity of the link between Merchant's Website, APPNIT's Website and the Payment Mechanism is maintained at all times during the term of this Agreement.
- m.) Merchant shall bear and be solely responsible for the payment of all relevant taxes (including any applicable withholding taxes) due upon the products and services provided via the Customer Orders received through Merchant's Website.
- n.) Merchant shall not (whether on-line or otherwise):
 - (i) describe itself as agent or representative of APPNIT;
 - (ii) make any representations to Customer or any third party or to give any warranties which may require APPNIT, to undertake to or be liable for, whether directly or indirectly, any obligation and/or responsibility to Customer or any third party.
- o.) Merchant shall use APPNIT's services and other facilities offered on APPNIT's software only for Merchant's Website (which specifically mentioned hereinabove) and for no other websites/platforms.
- p.) Merchant shall not directly use APPNIT's services and facilities in any manner or in furtherance of any activity, which constitutes a violation of any law or regulation or which may cause APPNIT, to be subject to investigation, prosecution or legal action.
- q.) Merchant shall duly intimate APPNIT of its change of ownership or legal status or its cessation of business.
- r.) Merchant will at all times, display the logo and other such trademarks of APPNIT that may be mutually agreed on their website, to indicate the availability of APPNIT's service to their Customers.
- s.) The Merchant shall provide the customer with an online facility on the Merchant's website to enable the Customer to query the status of customers orders placed. The Merchant shall ensure that it provides the customer with an email service/help-line phone numbers for interacting with the Merchants for any questions, requests, cancellations, etc. The Merchant shall also ensure that they shall respond to the customer query within 48 hours after its receipt.
- t.) The Merchant shall ensure that it shall make available/provide the proof of dispatch/delivery("Proof") to APPNIT within 10 days from the receipt of communication from APPNIT about the same and shall also ensure that the proof is authentic, whether electronic or otherwise. Provided that, if APPNIT so requires, the physical copy of the proof shall be made available to in original to APPNIT.
- u.) The Merchant shall not be entitled to and shall not at any time require the Customers to provide the Merchant with any details of the Customer accounts held by the Customer including, without limitation, passwords, account number, card numbers and PIN which may be assigned to the Customer by the bank, from time to time, except for such details as may be required for authorization of Charges and pre-approved by APPNIT.
- v.) The merchant understands and agrees to comply with all the applicable laws, applicable standards, including the rules set by the Card Association including card acceptance guidelines of Master Card, Visa, Diners, Amexetc.
- w.) Prohibited Items - The Merchant shall ensure that the best service standards in the industry are adopted by it and the Merchant shall ensure delivery of all goods and services purchased by Customers in accordance with the highest

standards. Merchant assures, undertakes and guarantees that the following products and services shall not be sold on the Merchants site and / or no transactions shall be processed through the Payment Gateway Facilities herein by APPNIT for following Products and Services: -

- (i) Adult goods and services which includes pornography and other sexually suggestive materials (including literature, imagery and other media); escort or prostitution services;
- (ii) Alcohol which includes Alcohol or alcoholic beverages such as beer, liquor, wine, or champagne;
- (iii) Body parts which includes organs or other body parts;
- (iv) Bulk marketing tools which includes email lists, software, or other products enabling unsolicited email messages (Spam);
- (v) Cable descramblers and black boxes which includes devices intended to obtain cable and satellite signals for free;
- (vi) Child pornography which includes pornographic materials involving minors;
- (vii) Copyright unlocking devices which includes Mod chips or other devices designed to circumvent copyright protection;
- (viii) Copyrighted media, which includes unauthorized copies of books, music, movies, and other licensed or protected materials;
- (ix) Copyrighted software, which includes unauthorized copies of software, video games and other licensed or protected materials, including OEM or bundled software;
- (x) Counterfeit and unauthorized goods which includes replicas or imitations of designer goods; items without a celebrity endorsement that would normally require such an association; fake autographs, counterfeit stamps, and other potentially unauthorized goods;
- (xi) Drugs and drug paraphernalia which includes illegal drugs and drug accessories, including herbal drugs like salvia and magic mushrooms;
- (xii) Drug test circumvention aids which includes drug cleansing shakes, urine test additives, and related items;
- (xiii) Endangered species, which includes plants, animals or other organisms (including product derivatives) in danger of extinction;
- (xiv) Gaming/gambling which includes lottery tickets, sports bets, memberships/ enrolment in online gambling sites, and related content;
- (xv) Government IDs or documents which includes fake IDs, passports, diplomas, and noble titles;
- (xvi) Hacking and cracking materials which includes manuals, how-to guides, information, or equipment enabling illegal access to software, servers, websites, or other protected property;
- (xvii) Illegal goods, which includes materials, products, or information promoting illegal goods or enabling illegal acts;
- (xviii) Miracle cures which includes unsubstantiated cures, remedies or other items marketed as quick health fixes;
- (xix) Offensive goods, which includes literature, products or other materials that: a) Defame or slander any person or groups of people based on race, ethnicity, national origin, religion, sex, or other factors b) Encourage or incite violent acts c) Promote intolerance or hatred;
- (xx) Offensive goods, crime that includes crime scene photos or items, such as personal belongings, associated with criminals;
- (xxi) Prescription drugs or herbal drugs or any kind of online pharmacies which includes drugs or other products requiring a prescription by a licensed medical practitioner;
- (xxii) Pyrotechnic devices and hazardous materials which includes fireworks and related goods; toxic, flammable, and radioactive materials and substances;
- (xxiii) Regulated goods which includes air bags; batteries containing mercury; Freon or similar substances/refrigerants; chemical/industrial solvents; government uniforms; car titles; license plates; police badges and law enforcement equipment; lock-picking devices; pesticides; postage meters; recalled items; slot machines; surveillance equipment; goods regulated by government or other agency specifications;
- (xxiv) Securities, which includes stocks, bonds, or related financial products;
- (xxv) Tobacco and cigarettes which includes cigarettes, cigars, chewing tobacco, and related products;
- (xxvi) Traffic devices, which includes radar detectors/hammers, license plate covers, traffic signal changers, and related products;
- (xxvii) Weapons which includes firearms, ammunition, knives, brass knuckles, gun parts, and other armaments;
- (xxviii) Wholesale currency, which includes discounted currencies or currency, exchanges;
- (xxix) Live animals;
- (xxx) Multi Level marketing collection fees;
- (xxxi) Matrix sites or sites using a matrix scheme approach;
- (xxxii) Work-at-home information;
- (xxxiii) Drop-shipped merchandise;
- (xxxiv) Any product or service, which is not in compliance with all applicable laws and regulations whether federal, state, local or international including the all laws of India;

5. DISCLOSURE OF CREDIT CARD INFORMATION

Either Party may disclose the Sensitive Information, if it needs to be disclosed pursuant to any order/direction of a Court and/or regulatory authority of competent jurisdiction, to the extent specified in the order/direction of such Court and/or regulatory authority. Subject to this clause, the Merchant, at all times, shall protect and keep confidential all information related to Credit Card/Debit Card or Net Banking facilities of the Customers ("Sensitive Information").

6. SECURITY OF CARDHOLDER DATA

Merchant shall ensure that there are proper encryption and security measures at its Site to prevent any hacking into the information of Merchant. It shall be the obligation of Merchant to verify the IP address of www.appnittech.com in the return/confirmation message URL. In the event of any loss being due to any act, which is beyond the control of Merchant, including any hacking into Merchant Site, the loss shall be borne by Merchant alone and not by APPNIT.

7. GUARANTEE OF SUPPLY AND DISPUTES REGARDING PRODUCTS/SERVICES

- a.) Disputes regarding Product & Services: APPNIT shall not be responsible for the quality or merchantability of the Products and services sold to and availed by the Customer. APPNIT shall also not be responsible for any non-delivery of the Products/Services to the Customer. Merchant shall ensure that the transfer of title in the Products to the Customer is completed only on actual delivery and verification thereof. All disputes regarding quality, merchantability, non-delivery and delay in delivery of the Products/Service or otherwise will be dealt with by and between Merchant and the Customer directly and APPNIT shall not be a party to such disputes.
- b.) In case of a "charge back", repudiation of any transaction by a Customer, or a request for refund by any Customer for any reason whatsoever, APPNIT shall be entitled to cancel Authorization and refuse to make any payments to Merchant. If there is insufficient funds available in the Merchant's Account maintained with APPNIT; the Merchant shall on receipt of the claim from APPNIT undertake forthwith to pay to APPNIT, the amount of the refund/ charge back/ repudiation to the extent to which such funds proves inadequate.

8. NO WARRANTY

- a.) APPNIT, the Acquiring Banks and the Facility Providers disclaim all warranties, express or implied, written or oral, including but not limited to warranties of merchantability and fitness for a particular purpose. Merchant acknowledges that APPNIT, the Facility Providers and the Acquiring Bank's services may not be uninterrupted or error free. Merchant also acknowledges that the services provided by the Acquiring banks and the facility providers to APPNIT which is passed on to Merchant under this agreement, can be in any event be brought to an abrupt end in any event whatsoever by any of the acquiring banks or the facility providers for any reason whatsoever or can be suspended for maintenance of the website as it may consider appropriate without providing any notice.
- b.) APPNIT's sole obligation and Merchant's sole and exclusive remedy in the event of interruption to the Services or loss of use and/or access to APPNIT's Website, the facility Providers facilities and the Acquiring Bank's Payment Mechanism and services, shall be to use all reasonable endeavors to restore the Services and/or access to the Payment Mechanism as soon as reasonably possible.
- c.) Without prejudice to any other provision of this Agreement, APPNIT, the Facility Providers and the Acquiring Banks do not warrant that:
 - (i) APPNIT's Website and services, the facility providers facilities and the Acquiring Bank's Payment Mechanism will be provided uninterrupted or free from errors or that any identified defect will be corrected; or
 - (ii) is free from any virus or other malicious, destructive or corrupting code, program or macro.
- d.) For the avoidance of doubt, in no event shall APPNIT, the Facility Providers and the Acquiring Banks be liable to Merchant or any other third party for any of the following:
 - (i) amounts due from Customer in connection with any service obtained by the Customer at Merchant's Website;
 - (ii) any applicable taxes and Government levies;

9. INDEMNITY

- a.) Merchant hereby undertakes and agrees to indemnify at all times and hold harmless APPNIT, Facility Providers and Acquiring Banks from and against all actions, proceedings, claims, liabilities (including statutory liability), penalties, demands and costs, awards, damages, losses and/or expenses, legal fees, charges however arising directly or indirectly as a result of:

- (i) any breach or non-performance by the Merchant or of any of Merchant's undertakings, warranties, covenants, declarations or obligations under this Agreement; or
 - (ii) any claim or proceeding brought by Merchant's Vendors, the Customer or any other person against APPNIT, in respect of any services offered by Merchant or of any products and usage of Merchant's website or of any contents of the Merchant's website;
 - (iii) any act, neglect or default of Merchant's agents, employees, licensees, affiliates or customers; or
 - (iv) any act or omission by the Merchant in respect of the sale of/payment for the products; or
 - (v) any fines, penalties, interest on delayed payments imposed directly or indirectly on APPNIT on account of the Merchant/or the sale of products;
 - (vi) any claim by any other party against APPNIT, arising from sub-clause (i), (ii), (iii), (iv) or (v) above.
- b.) Merchant shall also fully indemnify and hold harmless APPNIT, the Facility Providers and the Acquiring Banks against any loss, costs, expenses, demands or liability, whether direct or indirect, arising out of a claim by a third party that Merchant's Services infringes any intellectual or industrial property rights of that third party
- c.) In the event of APPNIT, the Facility Providers and the Acquiring Banks being entitled to be indemnified pursuant to the provisions of this Agreement, APPNIT shall be entitled to accordingly and to such extent debit Merchant's Account with APPNIT irrespective of any dispute that the Merchant may have in respect of such debit.
- d.) The indemnities under this Article are in addition to and without prejudice to the indemnities given elsewhere in this Agreement and all the indemnities provided herein shall survive the termination of this Agreement.
- e.) It shall be the endeavour of APPNIT to maintain its Services/software/platform provided to Merchant on best effort basis and available 24X7 without any delay or demur.

10. TRANSACTION LIMITS

APPNIT, reserves the right to impose limits on the number of purchases which may be charged on an individual credit card account during any time period, and reserves the right to refuse to make payments in respect of Orders exceeding such limit with due notice and information to Merchant. APPNIT, also reserves the right to refuse to make payments in respect of Orders from Customers with a prior history of non payments, questionable charges and any litigation arisen from similar services provided by APPNIT to the Customers before and APPNIT shall notify the Merchant accordingly.

11. FEES AND OTHER CHARGES

In consideration of the services provided by APPNIT, Merchant agrees to pay to APPNIT the Transaction Discount Rate, integration fees and AMC as detailed in Annexure 'A'.

12. TERMINATION

- a.) This Agreement shall become effective on the Effective Date and shall remain in full force for an initial term of 3 years and shall be renewed automatically for a period of 3 (three) years every time unless either Party delivers to the other Party a written notice of non-renewal or replacement as per provisions under the agreement.
- b.) Subject to other provisions of this Agreement, the modification / amendments / review to this Agreement shall be as mutually agreed and in writing vide an instrument.
- c.) Either Party can terminate this Agreement for any reason whatsoever by providing an advance notice of 60 days.
- d.) Notwithstanding anything contained herein, in the event either party breaching any of the terms of this Agreement and fails to cure the breach within 30 days of intimation, then the other party shall have the right to terminate this Agreement forthwith. Provided that if APPNIT has reasonable ground to believe at its sole discretion that the Merchant has breached terms of this Agreement by selling any Prohibited Items or has contravened any applicable law, it shall have right to terminate this Agreement forthwith without giving any prior written notice.
- e.) Either Party may at its discretion terminate this Agreement if the non-terminating Party is subject to any action or proceedings, whether administrative or judicial in respect of insolvency, winding up, dissolution or bankruptcy.
- f.) APPNIT reserves the right to terminate the agreement in the event the Bank has not approved the merchant and intimated the same to APPNIT. APPNIT shall on receipt of such intimation/request forthwith deactivate the Merchant from accessing the Internet Payment Gateway provided hereunder.
- g.) The Merchant also acknowledges that the arrangement between one or more Acquiring Banks and APPNIT or between one or more Facility Providers and APPNIT may terminate at any point of time and services by such Facility Providers

and Acquiring Banks may be withdrawn and consequently arrangement between APPNIT and the Merchant relating to such facility provider or the Acquiring Banks shall stand terminated.

13. FORCE MAJEURE:

Notwithstanding the provisions of this Agreement, neither Party shall be eligible for liquidated damages or termination for default against the non performing Party, if and to the extent that the delay in performance or other failure to perform its obligations under the contract is the result of an event of Force Majeure.

If a Force Majeure situation arises, the affected Party shall promptly notify the other Party in writing of such conditions and the cause thereof. Unless otherwise directed by the client in writing, the affected Party shall continue to perform its obligations under the Agreement as far as reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event. The non-affected Party may terminate this contract, by giving a written notice of minimum 30 days to the affected Party, if as a result of Force Majeure, the affected Party being unable to perform a material portion of the services for a period of more than 60 days.

14. PRICES

Prices to be charged by Merchant shall be inclusive of all taxes and delivery charges and shall be uniform to all Customers. In case of any difference in prices due to shipping or any other charges, the same shall be made explicit to the customer.

15. NO CONSEQUENTIAL DAMAGES

Without prejudice to any other provisions of this Agreement, APPNIT, the Facility Providers and the Acquiring Banks shall not be liable to Merchant for any loss or damage whatsoever or howsoever caused arising directly or indirectly in connection with the APPNIT's Website and services, the facility providers facilities and the Acquiring Bank's Services and/or this Agreement, including without limitation any: -

- a.) Loss of data;
- b.) Interruption or stoppage to the Customer's access to and/or use of the APPNIT's Website and services and the Payment and Delivery Mechanism;
- c.) Any consequential loss or damage or loss of profit, business, revenue, goodwill or anticipated savings arising out of the performance of the Services or otherwise.

16. CUSTOMER SUPPORT

Merchant shall provide a commercially reasonable level of customer support to Customers. Such support shall include appropriate notice to Customers of (i) a means of contacting Merchant in the event the purchaser has questions regarding the nature or quality of the goods or services that Merchant offers for sale and (ii) procedures for resolving disputes. If APPNIT or any of the Facility Providers or any of the Acquiring Banks determines in good faith that Merchant's failure to comply with this paragraph is causing an unacceptable burden on its customer support facilities, APPNIT may suspend or terminate this Agreement as per provisions provided in this agreement.

17. GENERAL PROVISIONS

17.1 Entire Agreement - This Agreement constitutes the entire agreement between APPNIT and Merchant pertaining to the subject matter hereof and supersedes in their entirety all written or oral agreements between the Parties.

17.2 Relationship between Parties - The Parties to this Agreement are independent contractors and nothing in this Agreement shall make them joint ventures, partners, employees, agents or other representatives of the other Party hereto. Neither Party shall make any representation that suggests otherwise.

17.3 Severability - In the event that any part of this Agreement shall be held by a court of competent jurisdiction to be unlawful or otherwise unenforceable, the remainder of this Agreement shall remain in full force and effect to the maximum extent possible.

17.4 Variations of Agreement - APPNIT reserves the right at all times to vary or amend these terms and conditions or to introduce new terms and conditions. Any such variations or amendment or introduction will become effective and binding on the Merchant upon notification to the Merchant by ordinary post and if the Merchant is unwilling to accept such variation or amendment or introduction, the Merchant shall notify APPNIT in writing by registered post within 5 days from the receipt of the notification by APPNIT.

17.5 Assignment - APPNIT shall always retain the right to assign the services provided by it under this agreement for such remaining period of the agreement, to any of its chosen subsidiaries, affiliates, associates and there would be no new agreement between the new acquirer and Merchant for the services provided by APPNIT under this agreement. APPNIT shall however send a written notice of the above to Merchant. The Merchant cannot assign this Agreement to any person (natural and non-natural) without the prior written consent of APPNIT. This Agreement shall apply to and bind any successor or permitted assigns of the Parties hereto.

17.6 Waiver - All rights and remedies hereunder shall be cumulative and may be exercised singularly or concurrently. If any legal action is brought to enforce any obligations hereunder, the prevailing Party shall be entitled to receive its attorney's, fees, court costs and other collection expenses, in addition to any other relief it may receive. If either Party fails to perform its obligations under any provision of this Agreement or the other Party does not enforce such provision, failure to enforce on that occasion shall not prevent enforcement on later occasions.

17.7 Survival Of Provisions - Notwithstanding any other provision to the contrary herein, terms which by their nature survive termination or expiration of this Agreement especially payments and/or any revenue sharing between both parties shall make both parties liable and they will be bound accordingly.

17.8 Liability Upon Expiration - Neither Party shall be obligated to extend or renew this Agreement.

17.9 Jurisdiction - This Agreement shall be interpreted, construed and enforced in all respects in accordance with the laws of India without regard to any principles of conflicts of laws thereof. In case of any disputes, differences the parties shall have the exclusive jurisdiction of Courts of NOIDA.

17.10 Dispute Resolution

Each of the Parties agrees that:

- a.) All differences, disputes, issues relating to interpretation of any clauses and claims whatsoever arising out of or in any manner related to any provision of this Agreement including any failure of the respective Boards of the Parties to reach an understanding under any provision of this Agreement shall be resolved by a Sole Arbitrator appointed by APPNIT. The Sole Arbitrator shall adopt all the procedures, rules and regulations mentioned in the Arbitration & Conciliation Act, 1996 and the accompanying rules. The costs of the Arbitration shall be borne equally by both parties.
- b.) The Parties further agree that the decision of the arbitrator shall be final and binding.
- c.) The arbitration proceedings shall be in English. The venue of the arbitration proceedings shall exclusively be at Mumbai.

17.11 Headings and Sub Headings - The headings and sub headings in this Agreement are for convenience only and do not affect the meaning of the relative section / clause.

17.12 Notices –

- a.) Any notice, direction or instruction given under this Agreement shall be in writing and delivered by hand delivery, registered post acknowledgement due and any reputed courier to the abovementioned addresses of the Parties or to such other address as a Party notifies to other in writing, from time to time. Notice will be deemed given (i) In the case of hand delivery on delivery; (ii) In case of registered post acknowledgement due in 2 calendar days after posting; (iii) In case of Courier in 3 calendar days after posting. Provided that in case of the date of receipt not being a business day, notice shall be deemed to have been received by the receiving Party on the next business day.
- b.) Nothing in the aforesaid clauses shall affect any communication given by way of the internet or other electronic medium as otherwise provided in this Agreement for the purpose of rendering the services.

17.13 Counterparts – This Agreement may be executed in any number of counterparts, each of which, when executed and delivered, is an original, but all the counterparts taken together shall constitute one document.

17.14 Audit Rights - APPNIT may, by itself or an authorised representative, audit or call for the Merchant's transaction records or such records as is required by the Acquiring Banks to confirm the Merchant's compliance with the terms and conditions of this Agreement by giving the Merchant reasonable or at least 30 days notice to that effect. Any such audit will be conducted by APPNIT on the Merchant's premises during business hours. APPNIT and its authorised representatives will treat as confidential any confidential information that is contained in the records or other information provided by the Merchant during such audit and shall not copy such information in any form, and only use such information for the purposes of ensuring the Merchant's compliance with this Agreement, and enforcing the conditions of this Agreement.

18. FULL RECOURSE OF PAYMENT MADE TO MERCHANT

18.1 The Merchant agrees that payment made in respect of any Order, which proves to be uncollectible from the Customer and/or in respect of which the Issuing Bank raises a claim on APPNIT or the Facility Providers or the Acquiring Banks, it shall be payable entirely by the Merchant to APPNIT, Facility Providers or Acquiring Banks, as the case may be. The Merchant agrees to the non-payment of such Order or the charging back of such uncollectible charge as the case may be without any demur or protest, dispute or delay by APPNIT. The Merchants further agrees, confirms, undertakes and guarantees that the nonpayment of such order or the charging back of such uncollectible charge as the case may be, shall be the personal responsibility / liability of all the promoters and directors in their individual capacity in the event the Merchant is a Limited Company.

18.2 Without prejudice to the aforesaid provisions, the following payments shall be deemed to be uncollectible:

- a.) Any payments involving the alleged forgery of the Customer’s Card Number and PIN, or that of the Card Number, Card Expiry date, Customer Name, Transaction amount, etc. of whatsoever nature. In such an event, APPNIT, the Facility Providers and the Acquiring Banks shall not be required to check the veracity of any alleged fraud and shall be entitled to rely upon the allegation made by the Customer.
- b.) Any payment, which the Customer refuses to honour or demands a refund of because the Product/services purchased from the Merchant was not as they were promised or were defective, deficient, incomplete and/or unsatisfactory for any reason whatsoever.
- c.) Any charge/debit, which is a suspect charge.
- d.) Any charge/debit made on a card other than a Valid Card.
- e.) Any charge/debit for merchandise or services in an amount in excess of the Price.
- f.) Any charge/debit for undelivered merchandise or services.
- g.) Any charge / debit arising out of any alleged hacking, breach of security or encryption (if any) that may be utilised by APPNIT, the facility providers and the Acquiring Banks from time to time.
- h.) Any payment, wherein the proof of delivery is not provided by the Merchant to APPNIT within 15 days of the request received from APPNIT.
- i.) Any payment, wherein the Merchant fails to resolve the customer queries within 30 days of receiving the same from the customer.

18.3 The Merchant hereby authorises APPNIT to appropriate the Merchant’s current balance amounts with APPNIT to the extent of the aforesaid uncollectible amounts and any other moneys due to APPNIT by the Merchant in terms of this Agreement in respect of a Customer Charge without any demur, protest, dispute or delay. If there is insufficient funds available therein; the merchant shall on receipt of the e-mail from APPNIT and/ or claim from APPNIT undertakes forthwith without any demur, protest, dispute or delay, to pay to APPNIT, the amount of the dispute / refund to the extent to which such funds proves inadequate. Without prejudice to any other of APPNIT’s rights and remedies, in the event that the Merchant does not make any payment to APPNIT by its due date or on demand as required under this Agreement, APPNIT shall be entitled to charge daily interest on such overdue amount from the due date of demand (as the case may be) until the date of payment in full, at the rate of 2 % per month.

The parties hereto have hereunto set their hands on the date first above written.

On Behalf of Appnit Technologies Private Limited	On Behalf of Merchant
<p>(_____) Authorised Signatory</p>	<p>(_____) Authorised Signatory</p>

ANNEXURE
"A"

This annexure contains the rate agreement between APPNIT and Merchant for providing above mentioned products and services.

APPNIT will charge the Merchant and the Merchant agrees to pay the following charges in terms of the provisions of this Agreement to APPNIT –

1. Transaction Discount Rate ("TDR") depending on the gateway provided:

Type of Gateway provided	TDR
Credit Cards Gateway	___%
Debit Cards Gateway	___%
NetBanking Gateway	___%
American Express Card Gateway	___%

The TDR is subject to APPNIT's review post 12 months of launch; however APPNIT reserves the right to review and revise the same at its sole discretion on prior notice to the Merchant.

2. A one-time non-refundable integration fee of Rs. _____ (Rupees _____ only).

3. AMC of Rs. ____ (Rupees _____) shall for the first year be payable in advance within 30 days of date of integration and for subsequent years shall be payable on or before _____ every year failing which Merchant shall be liable to pay interest @2.00 % p.m. for the delayed period.

Refundable Security deposit of Rs. _____. Refund of the security deposit shall be subject to the terms and conditions mentioned in Annexure "C".

In order to protect customer and merchant interest in the event of a dispute, APPNIT also reserves the right to withhold a "rolling reserve" on credit card transactions. This would be ___% of the total amount of credit card transactions and would be credited back to the merchant after 180 days.

In case of delay of more than 15 days from the due date in making payment by Merchant, a notice will be served upon them and if within 15 days from the date of such notice, the dues are not settled, interest will be charged at the prevailing bank rate.

All payments shall be carry the fortnightly/mutually agreed upon cycle, the payments for the transactions of a particular day shall flow to Merchant on the agreed settlement cycle date, after deduction of charges.

APPNIT will provide the necessary API's and software required to enable this process along with the necessary MIS reports for reconciliation.

"APPNIT shall have the right to revise/modify/restructure commercials with immediate effect in accordance with the RBI guidelines and instructions from Acquiring Banks"

ANNEXURE
"B"

Merchant's Bank Account Details

S.NO.	PARTICULARS	DETAILS
1	Bank	
2	Branch Address	
3	City	
4	IFSC code of beneficiary bank	
5	Beneficiary A/c Type & No. (Current/Saving)	
6	Full Name of Beneficiary (Pay to Name)	
7	Signing Authority(ies)	
8	Customer Id (if any)	

ANNEXURE
"C"

ADDITIONAL TERMS RELATING TO SECURITY DEPOSIT

1. The Merchant shall keep with APPNIT an interest free Security Deposit of Rs. _____ (Rupees _____). The Security Deposit shall be refundable after 180 days of termination of the Agreement, provided that there is no outstanding amount payable by the Merchant to APPNIT or the Facility providers or the Acquiring Bank. In case there is any such outstanding amount, APPNIT may set-off the same from the Security Deposit and refund the balance, if any.
2. The Merchant agrees to replenish the Security deposit by such amounts as may be requested by APPNIT from time to time. APPNIT may use this Security Deposit to set-off losses or costs or damages or Charge back suffered or incurred by the Customers, APPNIT, the Facility Providers or the Acquiring Banks, inter alia, due to fraud, misconduct, negligence or deficiency of service of the Merchant, Charge back from time to time or for any other reason attributable to the Merchant.
3. Without prejudice to any rights and remedies available to APPNIT, in the event that the Merchant does not replenish the Security Deposit Amount, APPNIT shall be entitled to deduct the same from amounts payable to the Merchant in terms of the Agreement in respect of a customer charge and if such amounts are not sufficient then shall charge daily interest on such overdue amount from the date of demand until the date of payment in full, at the rate of 1.5% per month. Provided further that the above right of APPNIT to appropriate the Security Deposit of the Merchant in the above manner shall be in addition to and reserving fully the right of APPNIT to recover all such losses, costs and damages from Merchant by any other means, which may be available to APPNIT in law.
4. In event any Customer making any request for refund of the Customer Charge on any grounds whatsoever within a period of fifteen (15) days from the actual Delivery of the Products or Services, APPNIT shall forthwith inform the Merchant of the same and if the Merchant is not able to resolve the dispute within a period of 5 (five) business days from the receipt of intimation, APPNIT shall deduct the relevant amount of Customer Charge from the payment to be made to the Merchant under this Agreement or from the Security Deposit or set-off the relevant amount of Customer Charge against the future payables to the Merchant and refund the same to the Customer.